

# Notice of Allowability

Application No.

10/036,171

Examiner

John P. Leubecker

Applicant(s)

SONNENSCHIN ET AL.

Art Unit

3739

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to December 13, 2007.
2. ☒ The allowed claim(s) is/are 76-80,91-95,97,105,107-111,119-125,130-139,143-160 and 166-169.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin McCarthy on December 20, 2007.

The application has been amended as follows:

#### ***IN THE ABSTRACT***

In lines 1-2, replace "The present invention relates to the field of ultrasonic devices. More particularly the invention is related to the use of" with –An endoscopic device includes--.

#### ***IN THE TITLE***

Replace title with –ENDOSCOPIC DEVICE HAVING ULTRASONIC POSITIONING--.

#### ***IN THE CLAIMS***

Cancel claims **75, 81-90, 96, 98, 99, 106, 112-118, 126-129, 140-142, 161-165.**

In claim **92**, line 2, replace "layers" with –surfaces--.

In claim **93**, line 1, replace "76" with –77--.

In claim **95**, line 2, after “wherein” delete “the”.

In claim **105**, lines 13 and 16, replace “transmitter” with –transducer--.

In claim **120**, lines 8 and 9, replace “transmitter/receiver” with –transducer--.

In claim **121**, line 8, replace “transmitter/receiver” with –transducer--.

2. The following is an examiner’s statement of reasons for allowance: The amendments made in the response filed December 13, 2007 define over the prior art of record, and specifically the Haynes reference by reciting in the combination that the endoscopic device comprises an articulation section and that one of the objects is located on the proximal end or proximally of said articulation section and the other of the objects is located distally of the articulation section. The Haynes device is not an articulatable device and would not work if it were. Since none of the other prior art of record explicitly teach or fairly suggest the combination of elements or steps now recited in claims 76 and 105, the claims in this application are now in condition for allowance. As for claim 122, the Examiner is withdrawing the 112, first paragraph rejection made in the Final Rejection since Applicant convinced the examiner that, in view of the disclosure, it is clear that claim 122 is only reciting an alternate arrangement of elements used in the method, and does not infer interchangeability of components.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John P. Leubecker/  
Primary Examiner  
Art Unit 3739